

Questions and Answers: Standards for Care of Marine Mammals in Captivity; Proposed Rule

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has published a proposed rule concerning the humane handling, care and treatment of marine mammals in captivity in the Federal Register for public comment.

Q: Why is APHIS proposing these changes?

A: We think our proposed changes will better ensure humane handling and treatment of marine mammals in a way that is practical and enforceable. The current standards have been in place since 1998 and it's important that we update them to reflect the most recent scientific data and studies available. The proposed rule amends standards for space requirements, water quality, indoor and outdoor facilities, variances, and interactive activities. Other standards for marine mammals in captivity are not affected by this proposed rule.

Q: What changes are being proposed?

A: The rule proposes the following changes to the standards:

- requiring appropriate pool exit and entry areas for pinnipeds, polar bears, and sea otters to make it easier for older or infirm animals to access dry spaces;
- strengthening the requirements for an entity to receive a variance to the standards, including requiring a report from two APHIS-selected experts, if needed;
- maintaining current performance-based standards for water temperature, while allowing for adjustments to be made based on animal health and published scientific data;
- establishing new standards to address air quality problems at indoor facilities;

- reducing allowable bacteria counts in water to improve water quality;
- expanding recommended air and water temperature standards at outdoor facilities to include all marine mammal species;
- requiring full spectrum lighting appropriate to the animals' natural environments as well as accessible and sufficient shade for all animals;
- clarifying that, in addition to specific requirements in section 3.111, all in-water interactive programs must comply with AWA regulations and standards; and
- increasing allowable time for interaction between marine mammals and the general public from two to three hours and requiring at least 10 continuous hours without public interaction.

Q: Why didn't APHIS increase enclosure sizes for marine mammals?

A: APHIS does not have sufficient scientific or other supporting data to support increased space requirements at this time; however, we will consider any new data provided on this issue during the comment period or later.

Q: Why did APHIS change the name from swim-with-the-dolphins to in-water interactive programs?

A: This change will clarify that the AWA regulations extends to the wider variety of marine mammals and interactive activities currently in use, so APHIS is proposing to change the term swim-with-the-dolphins to in-water interactive programs to take into account the these different species and activities.

Q: Why did APHIS increase the number of hours allowed during in-water interactive programs?

A: The amount of time a marine mammal is allowed to interact with the public was increased from two to three hours based on recommendations from licensees with long running in-water interactive programs. They demonstrated through medical data that an additional hour would not harm the marine mammals. During interactive programs, marine mammals are required to have unrestricted access to a "sanctuary" and are allowed to leave the interaction area as they choose. The marine mammals are also required to have 10 continuous hours without public interaction.

Q: If a facility no longer has marine mammals performances but still has marine mammals in captivity for exhibition, are they still required to be licensed?

A: Yes, facilities that have marine mammals in captivity for exhibition are required to have an Animal Welfare Act license regardless of whether the animals perform.

Q: Will the public be allowed to comment on the proposed rule?

A: Yes, APHIS expects that stakeholders interested in the health and well-being of marine mammals will have substantive comments to make regarding the changes proposed in this rule, and we encourage them to do so. All comments submitted before April 4, 2016 will be taken into consideration when developing a final rule.

Q: What steps have been taken over the years to ensure that marine mammals are being treated humanely?

A: Marine mammals have been protected under the Animal Welfare Act since 1970. The AWA provides basic standards related to indoor and outdoor facilities, space requirements, water quality, variances and interactive programs. It is enforced by APHIS' Animal Care program, which conducts unannounced inspections of licensed facilities. Through its inspections, education, cooperative efforts and enforcement, Animal Care protects millions of animals nationwide each year.

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